

SD MEDICAID PROVIDER AGREEMENT

The SD Medicaid Provider Agreement, hereinafter called Agreement, is executed by an eligible provider who desires to be a participating provider in the South Dakota Medicaid Program, hereinafter called Provider, and the State of South Dakota, acting by and through its Department of Social Services, Division of Medical Services, hereinafter called Medical Services. Collectively, the Provider and Medical Services are known as the “Parties.”

As a participating Provider, the Provider agrees to the following:

1. Licensure and Certification.

- a. Provider is currently licensed, certified, or registered to practice and is in good standing in the State of South Dakota, the state where services are rendered, and/or in Provider’s resident state, as required.
- b. Provider is and continues to be enrolled and in good standing with Medicare if Provider intends to enroll as a federally qualified health center, rural health clinic, home health agency, Indian Health Service, end stage renal disease center or unit, durable medical equipment supplier, or swing-bed services.
- c. Provider will update their electronic enrollment record to show continued good standing with licensure, certification, or registration within thirty (30) days of receiving notice of renewed or extended expiration date.
- d. Provider will update their electronic enrollment record and provide notice to Medical Services at SDMedicaidPE@state.sd.us within ten (10) days of receiving notice of an adverse change to a Provider’s license, certification, or registration status. The notice will include the provider’s NPI, effective date of the status change and the reason or cause of the change such as revocation, suspension, retirement, or death.

2. Ownership and Control.

- a. At the time the Provider enters into this Agreement, the Provider acknowledges that ownership and control information required by 42 C.F.R. § 455.104 has been fully and completely disclosed in the electronic enrollment record or other required forms.
- b. At the time the Provider enters into this Agreement, the Provider certifies that Provider and any of Provider’s owners, officers, board of directors, agents, managing employees, and/or any person or entity with any ownership or controlling interest:
 - i. Has never been convicted, including any form of suspended sentence or settlement in lieu of conviction of any crime determined to be detrimental to the best interests of the SD Medicaid program; and
 - ii. Is not currently, and has never been, suspended, debarred, proposed for debarment, declared ineligible, or voluntarily or otherwise excluded from participation in this transaction by any state Medicaid program or any Federal department or agency.
- c. At all times during the course of this Agreement, the Provider agrees to update their electronic enrollment record with changes to their officers, board of directors, agents, managing employees, and any other person with a controlling interest.
- d. At all times during the course of this Agreement, the Provider agrees to notify Medical Services by certified mail within ten (10) days should the Provider or any of its owners, employees, agents, contractors, or any person or entity with any ownership or controlling interest become debarred, suspended, proposed for debarment, declared ineligible, or voluntarily or otherwise excluded from participating in Medicare or another state Medicaid program during the term of this Agreement.
- e. Provider agrees to provide at least thirty (30) days advance written notice to Medical Services at SDMedicaidPE@state.sd.us of a change of ownership.

3. Onsite Visits. Provider acknowledges and will grant access to Medical Services or their designees, and/or Medicaid Fraud Control Unit (MFCU), and/or U.S. Department of Health & Human Services (HHS) for unannounced site visits for the purpose of meeting requirements of 42 C.F.R. § 455.432, Section 5 below, and upholding the integrity of the Medicaid program.

4. Fingerprint-Based Criminal Background Checks. Pursuant to 42 C.F.R. Part 455, providers identified as high categorical risk upon request will submit fingerprints on the form and in the manner required by Medical Services, for Provider, Provider’s owners, managing employees, and any person with a five (5) percent or more direct or indirect ownership interest, and authorizes Medical Services to complete state and Federal Bureau of Investigations (FBI) criminal history record checks.

5. Inspection and Maintenance of Records.

- a. Provider will keep their electronic enrollment record current and promptly make updates to changes including, but not limited to, Provider's name, locations and addresses, contact information, payment details, managing or controlling interests, license expiration, and additions, deletions, or replacements in entity association of servicing providers and their corresponding dates of participation and locations.
- b. Provider shall keep complete and accurate medical and fiscal records for a period of at least six years after the last claim is adjudicated or while an audit or investigation is pending that fully justify and disclose the extent of the services rendered and billings made under the SD Medicaid Program.
- c. Upon request, Provider agrees to utilize fiscal records to provide Medical Services with cost reports in the form and manner prescribed by Medical Services.
- d. Provider will maintain and supply all documentation necessary for the reimbursement of any outstanding claims upon termination from the SD Medicaid program.
- e. Provider agrees to provide Medical Services with copies of any care coordination agreement or subsequent addendums entered into with Indian Health Services or any other tribal program and notification of agreement termination.
- f. Providers eligible to render health care services under contracts implemented under the Indian Self-Determination and Education Assistance Act, as amended, often referred to as 638 contracts, will provide copies of the initiated contracts and addendums or modifications which outline the covered medical or health care services.
- g. Provider agrees to allow Medical Services, and/or MFCU and/or HHS immediate access to any and all materials which may be deemed confidential by any regulatory or licensing agency, board or commission.
- h. Upon request, Provider shall furnish Medical Services, MFCU, and/or HHS access and information regarding any payments claimed for providing services.
 - i. Requested information must be provided to Medical Services and/or MFCU within 30 days pursuant to ARSD 67:16:33:04.
 - ii. Requested information must be provided to HHS within 35 days pursuant to 42 C.F.R. § 455.105.

6. False Claims Act Education. If Provider meets the annual threshold of \$5 million in Medicaid payments, Provider will self-identify that they qualify as an “entity” and comply with the requirements of 42 U.S.C. § 1396a(a)(68).

7. Billing and Payment.

- a. Provider agrees to provide medically necessary goods and services as required by the recipient and only in the amount required by the recipient without discrimination on the grounds of age, race, color, sex, national origin, physical or mental disability, religion, marital or economic status, service utilization, or health status or need for services, except when that illness or condition can be better treated by another provider type.
- b. Provider acknowledges that by submitting a claim to the SD Medicaid Program, Provider certifies that the services and supplies were
 - i. Medically necessary;
 - ii. Rendered prior to the submission of the claim; and
 - iii. Rendered by Provider or incident to Provider's professional service by an employee, and in the case of an individual practitioner, under Provider's immediate personal supervision as permitted by the SD Medicaid Program.
- c. Provider agrees to submit claims:
 - i. In accordance with billing manuals and instructions, Companion Guides, and as required under any and all state regulations;
 - ii. That are timely, true, accurate, and complete; and
 - iii. With charges that do not exceed the usual, customary, and reasonable (UCR) amount which is an amount based on what providers in that area usually charge to the general public for the same or similar medical services and supplies. Provider further agrees to provide Medical Services and/or MFCU and/or HHS access to Provider's usual and customary billing practices and records.
- d. Provider acknowledges by Provider's signature on this Agreement that Provider understands that payment and satisfaction of each claim will be from Federal and State funds and that any false claims, statements or documents, or concealment of material fact, may be prosecuted under applicable Federal and State law.

- e. Provider agrees to be individually responsible and accountable for the completion, accuracy, and validity of all claims submitted, including claims submitted for Provider by other parties. Provider further agrees to not make or cause to be made a claim, knowing the claim to be false, in whole or in part, by commission or omission or in any other respect contrary to the provisions of SDCL 22-45.
- f. Provider agrees not to bill, charge, collect a deposit from, seek compensation from, seek remuneration from, surcharge, or have any recourse against a recipient or person acting on behalf of a recipient, except to the extent that Medical Services has authorized cost sharing such as a copayment. Provider will accept as payment in full the amounts paid in accordance with the reimbursement rates established by Medical Services, except where payment by the recipient is authorized by Medical Services including any authorized cost sharing. A provider may not bill a recipient for services that are allowable by Medical Services, but not paid due to the provider's lack of adherence to Medical Services' or other payer requirements.
- g. Provider understands that failure to submit or failure to retain adequate documentation for all services billed to the SD Medicaid Program may result in recovery of payments for medical services not adequately documented and may result in the termination or suspension of Provider from participation in the SD Medicaid Program, and may result in civil or criminal liability.
- h. Provider acknowledges that Medical Services is the payer of last resort (subject to certain exceptions) and acknowledges its obligation to pursue payment from all other liable parties. Provider further agrees that in the event Provider receives payment from the SD Medicaid Program in error or in excess of the amount properly due under the applicable rules and procedures, Provider will promptly notify Medical Services and arrange for the return of any excess money so received.
- i. Provider agrees to accept payment from the SD Medicaid Program via electronic funds transfer.

8. Electronic Data Interchange (EDI).

- a. Provider agrees that this Agreement, among other items, constitutes a trading partner agreement as defined by 45 C.F.R. § 160.103 and governs the exchange of electronic health information between the Parties by Health Insurance Portability and Accountability Act of 1996 (HIPAA) standard transactions and permits appropriate disclosure and use of such information as permitted by law.
- b. The Provider agrees to comply with all State and federal law, rule, regulation and applicable policy, including without limitation HIPAA, Sections 1171 through 1179 of the Social Security Act, Title 45 of the Code of Federal Regulation including Parts 160, 162, and 164, all applicable federal regulation, the electronic data transaction standards and code sets, the HIPAA Implementation Guides, and Medical Services' Companion Guides.
- c. Prior to EDI and throughout the life of the Agreement, the Provider's electronic enrollment record will correctly indicate their desire to participate in EDI.
- d. In the event that any billing agent or clearinghouse relationship exists, the Provider's enrollment record will capture the relationship and the standard transactions the billing agent or clearinghouse is authorized to participate in.
- e. Each party is responsible for all costs, charges, or fees it may incur by transmitting electronic transactions to, or receiving electronic transactions from, the other party.
- f. Provider shall not change the definition, data condition, meaning, intent or use of a data element or segment in a standard transaction;
- g. Provider shall not add any data elements or segments to the maximum defined data set, or use any code or data elements that are not in the standard transactions or are marked as "not used."
- h. Each party is solely responsible for the preservation, confidentiality, and security of data exchanged as well as data in its possession, including data in transmissions received from the other party and will establish processes to limit access to those who need it to perform their duties and safeguard unauthorized access.
- i. The Provider agrees and understands that there exists the possibility that Medical Services or others may request an exception from the Transaction and Code Set Regulations in whole or in part. If this occurs, Provider agrees that it will cooperate and fully participate in the testing, verification, and implementation of a modification to the standard.
- j. The Provider understands that the transaction standards and code sets may be modified and agrees that it will cooperate and fully participate in modifying, testing, verifying, and implementing the modifications or changes.
- k. The Provider understands that it is responsible for following the Implementation Guides and Addendums as well as the DSS Companion Guides which are subject to change and will ensure that prior to initiating any EDI, the format specifications in the most current Guides are met. Failure to comply with the format

specifications will result in the electronic claim or transaction being rejected and Medical Services will not be obligated to respond to the transaction.

- l. The data shall be and remain the property of Medical Services and the Provider agrees that it acquires no title, rights, or interest to the data furnished by Medical Services, including de-identified information, as a result of the Agreement.
- m. The Provider acknowledges that criminal and civil penalties may apply for unapproved use of disclosure data.
- n. Medical Services shall not be liable to the Provider for any damage or expenses for damages in any amount incurred as a result of inaccuracies in any of the information, data, electronic files, or documents supplied.

9. Security.

- a. Provider agrees to use appropriate safeguards and comply with Subpart C of 45 C.F.R. Part 164 with respect to electronic protected health information, to prevent the use or unnecessary or unlawful disclosure of protected health information.
- b. Provider agrees to report unnecessary or unlawful use or disclosure of protected health information of which it becomes aware, including breaches of unsecured protected health information as specified at 45 C.F.R. § 154.410, and any security incident of which it becomes aware within five (5) business days of receiving knowledge of such use, disclosure, breach, or security incident by contacting the Department of Social Services' Privacy Officer at DSSprivacyofficer@state.sd.us.

10. Termination. This Agreement can be terminated for:

- a. Failure to comply with any portion of this Agreement, addendums to this Agreement, conditions of participation, or requirements and limits of applicable rules and regulations;
- b. Improper submission of claims, or actions deemed an abuse of the SD Medicaid Program, or actions involving SD Medicaid Program abuse which result in administrative, civil or criminal liability;
- c. Conviction (including any form of suspended sentence) of any crime determined to be detrimental to the best interests of the SD Medicaid Program;
- d. Suspension, revocation, or termination from participation in Medicare or another state's Medicaid program;
- e. Provider's license or certification is surrendered, lapsed, suspended, revoked, or is otherwise not active and in good standing;
- f. The ownership, assets, or control of the Provider's entity are sold or transferred;
- g. A change in federal tax identification number;
- h. Thirty days elapse since Medical Services provided notice to the Provider of its intent to terminate the Agreement;
- i. Inactivity of paid claims for a period of twenty-four months or greater; or
- j. The matter of Provider convenience at the request of the Provider with thirty days of advance notice.

11. Payment Suspension.

- a. In the case that the Provider's eligibility status with Medical Services, Medicare, or another state's Medicaid program is not active and in good standing, including retroactive determinations and periods of time where the Provider has not yet exhausted appeal rights, Medical Services reserves the right to suspend payment for services rendered. In the case where the Provider's eligibility status is not returned to active and good standing, payment for services rendered during the determined period of ineligibility may be denied. Provider may not bill or have any recourse against a recipient or person acting on behalf of a recipient for services denied due to Provider ineligibility.
- b. In the case that the Provider has failed to maintain their electronic enrollment record with accurate information including, but not limited to payment details and pay-to address, Medical Services reserves the right to suspend payment for services rendered until the Provider has updated their enrollment record.
- c. Additional payment suspensions, such as those identified in 42 C.F.R. Part 455 may also apply.

12. Governing Law and Venue. This Agreement shall be governed and construed in accordance with the laws of the state of South Dakota. Venue for any lawsuit pertaining to or affecting this Agreement shall be in the Circuit Court, Sixth judicial Circuit, Hughes County, South Dakota. The Provider is subject to and shall comply with all Federal and State laws, regulations and rules applicable to Provider's participation in the SD Medicaid Program. Provider also agrees to abide by regulations and rules adopted during the term of the Agreement pursuant to SDCL Chapter 1-26 or 5 U.S.C. §553 in effect at the time the service is rendered.

13. Electronic Signatures. Provider and Medical Services agree that each may treat executed faxes, scanned images, or photocopies with signatures as original documents.

14. Effective Date. This Agreement is binding upon enrollment effective date.

15. Signature Block. If Provider is a legal entity other than a person, identify the organization as the Provider in the Provider Name field. The person signing the Agreement on behalf of the Provider warrants that he/she has legal authority to bind Provider.

TO BE COMPLETED BY PROVIDER

I declare and affirm under the penalties of perjury that this Agreement has been examined by me, and to the best of my knowledge and belief, is in all things true and correct. I further declare and affirm under the penalties of perjury that any claim to be submitted pursuant to this Agreement will be examined by me, and to the best of my knowledge and belief, will be in all things true and correct.

PROVIDER NAME: _____
(Legal Name of Individual Provider for Individual Enrollments or Legal Name of Organization for Other Enrollment Types)

BY: _____
Authorized Signature (Must be Provider for Individual Enrollments)

DATE: _____

NAME: _____
(Printed Name of Signatory)

SERVICING NPI: _____
(Only applies if Agreement for individual enrollment type)

BILLING NPI: _____

BILLING NPI: _____

BILLING NPI: _____

BILLING NPI: _____

BILLING NPI: _____

BILLING NPI: _____

BILLING NPI: _____

BILLING NPI: _____

BILLING NPI: _____

(Multiple Billing NPI fields are only acceptable when Agreement is for *individual* enrollment type)

TO BE COMPLETED BY MEDICAL SERVICES

APPROVED BY: _____

REFERENCE NUMBER: _____

DATE: _____

NEW _____ REVALIDATION _____

RISK LEVEL _____

INSTRUCTIONS FOR COMPLETING THE PROVIDER AGREEMENT

1. **Provider Name** – This field should be populated with the legal name of the individual health care practitioner who has a type 1 NPI and who is agreeing to the terms and conditions of the Agreement. SD Medicaid does not accept proxy or assignment of signatures on behalf of individual providers. In the case of an organizational provider who has a type 2 NPI, this field should be populated with the organization's legal name as recognized by the IRS. A separate Agreement is required for each enrolled NPI.
2. **By** – This field is for the signature of the individual health care practitioner or in the case of an organization, the signature of the individual signing on behalf of the organization that has legal authority to bind the provider.
3. **Date** – the calendar date at the time the authorized signature in #2 is populated.
4. **Name** – This is the name of the individual who signed the agreement in readable print.
5. **Servicing NPI** – This field is only populated when the "Provider Name" field is for an individual health care practitioner who has a type 1 NPI.
6. **Billing NPI** – In the situation of an entity enrollment with a Type 2 NPI, there may be one and only one BNPI populated. Multiple occurrences of this field can be populated when the "Provider Name" is for an individual enrollment type to reflect the various NPI that the individual is associated to.
7. **Submitting Documentation** – The Agreement and all related documentation for a particular NPI should be uploaded to the enrollment record within the Provider Enrollment Portal (bottom of 1st enrollment record screen).

For additional assistance with SD Medicaid Provider Enrollment, please refer to the Provider Enrollment Portal User Guide, Provider Enrollment and Maintenance webpage (<https://dss.sd.gov/medicaid/providers/enrollment/enrollment.aspx>) or email SDMedicaidPE@state.sd.us with your NPI and applicable question.